

MINUTES OF THE SOLID WASTE MANAGEMENT BOARD MEETING

Indiana Government Center South
402 West Washington Street
Conference Center Room A -- 1:30 p.m.
Indianapolis, Indiana
September 21, 2010

The meeting was called to order by Mayor William Graham, Chairperson, at 1:31 p.m. The following members were present: Mr. Tom Barnett, Mr. Marlin Chambers, Dr. Ted Niemiec, Mr. Howard Cundiff, Ms. Pam Fisher, Mr. Tom Hohman, Ms. Deborah Albright, Mr. Rick Dyar, and Mr. Jim Murray. A quorum was present.

The following Indiana Department of Environmental Management (IDEM) staff members were present: Mr. Bruce Palin, Assistant Commissioner, Office of Land Quality; Ms. Peggy Dorsey, Deputy Assistant Commissioner, Office of Land Quality; Ms. Laura Steadham, Branch Chief, Office of Land Quality; Mr. Mike Dalton, Section Chief, Rules Development Branch, Office of Legal Counsel; Ms. Lydia Kuykendal, Rules Development Branch, Office of Legal Counsel; Ms. Lynn West, Rules Development Branch, Office of Legal Counsel; Ms. Janet Pittman, Rules Development Branch, Office of Legal Counsel; Ms. Betsy Rouse, Rules Development Branch, Office of Legal Counsel.

APPROVAL OF MINUTES

Mayor Graham asked for additions or corrections to the minutes of the Solid Waste Management Board meeting of March 16, 2010. There being none, Mayor Graham asked for a motion to approve the minutes. Dr. Niemiec so moved, and Mr. Chambers seconded. The motion passed unanimously.

IDEM/RULES BRIEFING

Mr. Bruce Palin distributed the new rulemaking project list and commented that he had been currently working on the Alternative Fuel Rule, the Mobile Home Salvaging Rule, and the Biomass Digester Rule. For the Biomass Digester Rule, he stated that besides agricultural waste streams, there are possible projects in the future that may encompass other kinds of waste streams.

Mr. Palin also said that the United States Environmental Protection Agency (EPA) has proposed some regulations regarding coal combustion residues (fly ash and bottom ash) from coal-burning utilities. He explained that one alternative is to classify that material under Subtitle C (a hazardous waste); the other would be to monitor/regulate it under Subtitle D (solid waste regulations). The EPA has asked for comment, and IDEM has submitted comments on the proposed rule. He also said that IDEM's thinking is to not classify it as a hazardous waste. Because coal ash is reused in projects such as road-bases, IDEM doesn't want it to be negatively affected. Therefore, he said that the EPA is examining regulating disposal sites (IDEM has a permitting program in place) and the collection impoundments. He said environmental groups, utilities, businesses, and state regulatory agencies have commented with concerns for the impact to IDEM's programs.

Mr. Palin announced that Lynn West was working on a field trip/training meeting for the future, possibly spring, and she is open to any suggestions from the Board members.

He also stated that Ms. Laura Steadham, Branch Chief, Science Services Section, Office of Land Quality, would be giving a presentation after adjournment of the Board meeting regarding a nonrule policy document (NPD), Risk Integrated System of Closure (RISC) Technical Guidance. Mr. Palin said that this presentation is informational and will be presented to the Board as an NPD later, which will not require Board action.

Mr. Palin asked if there were any questions, to which Mr. Jim Murray inquired if coal combustion byproducts (bottom ash and fly ash) are considered a restricted waste. To which, Mr. Palin replied that IDEM regulates them as a restricted waste. Disposal can be made into state-approved municipal solid waste landfills or in permitted restricted waste sites. There were no other questions for Mr. Palin. For Mr. Palin's verbatim account, please see pages 5 through 12 of the official transcript.

RULEMAKING ACTION

The board undertook the following rulemaking actions:

- LSA Document #10-229 – Public hearing and board review of rules that do not expire under IC 13-14-9.5-1.1 for Solid Waste Land Disposal Facilities.

Mayor Graham announced the public hearing concerning the review of rules that do not expire under IC 13-14-9.5-1.1 for Solid Waste Land Disposal Facilities, LSA # 10-229. He introduced Exhibit A, the list of rules that do not expire under IC 13-14-9.5-1.1, into the record of the hearing.

Ms. Lydia Kuykendal informed the board that this rule is a nonsunset notice of rule review and that the rules are classified under IC 13-14-9.5-1.1, particularly rules in 329 IAC 10, Solid Waste Land Disposal Facilities, effective for the past seven years without changes. She said that because the rules are federally required, these rules do not expire. Ms. Kuykendal stated that this was not a traditional rulemaking for adoption. She said the Board could decide that no action needed to be taken or they could request further investigation if a rule or section needed to be changed. Ms. Kuykendal then asked if there were any questions. Mr. Tom Barnett then asked if these rules closely follow Code of Federal Regulation (CFR), to which she answered affirmatively. Please see pages 14 through 16 of the official transcript for a verbatim account of Ms. Kuykendal's presentation.

Mayor Graham then asked for questions from the Board and noted that there were no commenter cards nor questions. He stated that the Board must determine whether (based on comments received) it would like IDEM to open a new rulemaking for any of the rules listed as being exempt from the rule sunset process. If not, he stated that a motion be made for no further action to be taken on these rules.

Mayor Graham asked if there were any other questions for staff; there were none.

Mayor Graham closed the public hearing and asked for final questions or discussion.

Mayor Graham made a motion that either no further action be taken on the list of rules, or instruction for IDEM to start a rulemaking on a specific list of rules. Mr. Tom Hohman moved that no further action be taken, and it was seconded by Mr. Marlin Chambers. Motion passed unanimously that no further action should be taken on the listed rules that do not expire under IC 13-14-9.5-1.1 for Solid Waste Land Disposal Facilities.

OPEN FORUM

Mayor Graham invited public comment on topics of interest and potential rulemakings regarding Title 329 Indiana Administrative Code. There were no public comments.

ADJOURNMENT

Mayor Graham adjourned the meeting at 1:49 p.m.

NEXT MEETING SCHEDULED

The next meeting is scheduled for Tuesday, November 16, 2010, at 1:30 p.m. at the Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana.